

Lord Cottenham held in *Carmichael v. Carmichael*, 2 Phill. 101, that an executor *de son tort* could not, by settling with the personal representative, discharge himself from liability to the persons beneficially interested in the testator's estate; one personal representative could not discharge another from responsibility to parties beneficially interested by settling accounts with him, and an executor *de son tort* was subject to all the liabilities of an ordinary executor. But this was disapproved in *Hill v. Curtis supra*, and it was laid down that, as an executor *de son tort* may at law discharge himself by handing over the property to the rightful representative before action brought, (but not otherwise), so if he prove a settled account with the rightful representative before suit, it is a sufficient answer to a bill in equity against him for an account.

As to the Statute,—“Also,” says Godolphin *supra*, s. 2, “if the next of kin to the deceased procure some insolvent person or stranger, not only to take out the letters of administration, but also to make himself a deed of gift of all the goods for an invaluable consideration, he may be thus charged for the overplus of the worth of the goods more than he gave, if not for the whole. And if a debtor procure such an administration to be taken out, and then get a release of his debt from such administrator this may make him chargeable as executor in his own wrong, for so much as his debt doth amount unto.” So in *Dorsey v. Smithson*, 6 H. & J. 61, it was determined that a donee under a bill of sale fraudulent as to creditors is chargeable to them to the full extent of the property transferred, as executor *de son tort* of the donor, and see *Edwards v. Harben*, 2 T. R. 587.

In *Bentley v. Cowman*, 6 G. & J. 152, it was held, that where a defendant in equity is charged with facts which make him an executor *de son tort*, the prayer for general relief will entitle the complainant to an account, though not formally asked for.

See notes to 30 Car. 2, c. 7, & 4 & 5 W. & M., c. 24.

STATUTES

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CAP. XI.

An Act to restrain all Persons from Marriage until their former Wives and former Husbands be dead.

Forasmuch as divers evil disposed Persons being married, run out of one County into another, or into Places where they are not known, and there become to be married, having another